



**State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES**

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095

(603) 271-3503 FAX (603) 271-5171



Frank Holland
235 Cotton Hill Road
Gilford, NH 03249

Re: Northern Shores Water Co.
Tilton, New Hampshire
EPA #2352020

**ADMINISTRATIVE ORDER
No. WD 04-004**

FEBRUARY 26, 2004

A. INTRODUCTION

This Administrative Order is issued by the Department of Environmental Services, Water Division, to Frank Holland pursuant to RSA 485:4 and RSA 485:58. This Administrative Order is effective upon issuance.

B. PARTIES

1. The Department of Environmental Services, Water Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, having its principal office at 29 Hazen Drive, Concord, NH 03301.
2. Frank Holland is an individual having a mailing address of 235 Cotton Hill Road, Gilford, New Hampshire 03249.

C. STATEMENTS OF FACTS AND LAW

1. RSA 485 authorizes DES to regulate public water supplies. RSA 485:3 authorizes DES to adopt drinking water rules which identify contaminants that may have an adverse effect on health, which establish maximum contaminant levels that are acceptable for human consumption, which establish criteria and procedures to assure compliance with such maximum contaminant levels, and which identify criteria and standards to ensure the proper operation and maintenance of water systems. Pursuant to this authority, DES has adopted NH Admin. Rules Env-Ws 300.
2. Frank Holland is the owner of a water system known as Northern Shores Water Co. which serves approximately 28 single family residences with an estimated population of 70 persons located on Dublin Drive in Tilton, New Hampshire ("Water System"). The Water System is a community water system as defined in RSA 485:1-a, I and Env-Ws 302.02(i).

I. EMERGENCY PLAN

3. Env-Ws 360.14 requires the owner of each community water system to prepare an emergency plan that addresses emergency situations. A copy of the plan was required to be submitted to DES by March 15, 2003.

4. On or about March 21, 2002, DES sent the Water System a letter that explained the requirements of the emergency plan rule, noted the deadline of March 15, 2003, for submission of a copy of the emergency plan to DES, and indicated how to obtain assistance in preparing the emergency plan.
5. DES records indicate that the Water System did not submit a copy of its emergency plan by the March 15, 2003, deadline.
6. On or about March 31, 2003, DES issued a second letter to the Water System which noted the failure of the system to submit an emergency plan to DES by the March 15, 2003, deadline and requested that the emergency plan be submitted by June 30, 2003.
7. DES has no record of the requested response to the March 31, 2003, letter.
8. On or about August 12, 2003, Letter of Deficiency #WSEB 03-206 ("LOD") was issued to the Water System. The LOD requested, *inter alia*, that the Water System submit a copy of its emergency plan to DES by August 26, 2003.
9. The LOD was received by the Water System as evidenced by a signed postal receipt.
10. On September 4, 2003, September 19, 2003, October 6, 2003, and December 17, 2003, DES staff members either spoke with Frank Holland or left detailed messages on his telephone answering machine concerning the overdue responses to the LOD.
11. To date, the Water System has not submitted an emergency plan to DES.

II. SANITARY SURVEY

12. Env-Ws 306.01(b) requires that each community water system undergo a sanitary survey once every three years. The purpose of a sanitary survey is to conduct on-site reviews in order to evaluate the adequacy of the source(s), storage facilities, equipment, operation, and maintenance to produce and distribute safe drinking water.
13. Env-Ws 306.01(e) requires that significant operational or facility deficiencies identified during a sanitary survey be corrected within 90 days of the date of inspection.
14. On June 10, 2003, a sanitary survey was performed at the Water System by DES personnel. The sanitary survey report identified the presence of a camper within the sanitary protective radius of the well as a significant deficiency and requested the camper be moved. The sanitary survey report noted the requirement that significant deficiencies be corrected within 90 days of the date of the inspection and requested that written confirmation of the correction be sent to DES.
15. DES has no record of the requested written response to the significant deficiency identified in the June 10, 2003, sanitary survey report.

III. PUBLIC NOTICE

16. Env-Ws 351.04 requires a community water system that fails to comply with an applicable standard maximum contaminant level ("MCL") requirement established by Env-Ws 300 through Env-Ws 349 to notify persons served by the system within 30 days of learning of the violation. Within 10 days of performing public notice, the water system must provide proof of public notice to DES.

17. Pursuant to Env-Ws 315.01, the Water System incurred a bacteria MCL violation in August 2002 due to the presence of total coliform bacteria in more than one sample taken that month.

18. On September 11, 2002, DES issued the Water System a Notice of Violation ("September NOV") for the August 2002 bacteria MCL violation. The September NOV cited the requirement that the Water System provide public notice of the MCL violation within 30 days of receipt of the September NOV and also cited the requirement that proof of public notice be submitted to DES within 10 days of performing public notice. The September NOV included a public notice template for use by the Water System in meeting the public notice requirement.

19. DES has no record of receiving proof of public notice from the Water System for the August 2002 bacteria MCL violation.

20. On November 7, 2002, DES issued the Water System a Notice of Violation ("November NOV") for failing to provide proof of public notice to DES for the August 2002 bacteria MCL violation. The November NOV requested the Water System perform public notice within 7 days and then immediately submit proof of public notice to DES. The November NOV also stated that if the Water System had already performed the public notice for the August 2002 MCL violation, proof of such public notice should be submitted to DES immediately.

21. To date, DES has not received proof of public notice for the August 2002 bacteria MCL violation

D. DETERMINATION OF VIOLATIONS

1. The Water System has violated Env-Ws 360.14 by failing to submit a copy of its emergency plan to DES.

2. The Water System has violated Env-Ws 306.01(e) by failing to correct the significant deficiency identified in the June 10, 2003, sanitary survey within 90 days of the date of the inspection.

3. The Water System has violated Env-Ws 351.04 by failing to provide proof of public notice to DES for the bacteria MCL violation that occurred in August of 2002.

4. As owner of the Water System, Frank Holland, is responsible for the violations noted herein.

E. ORDER

Based on the above findings, DES hereby orders Frank Holland as follows:

1. **Within 30 days of the date of this Order**, submit to DES a copy of the Water System's emergency plan that meets the requirements of Env-Ws 360.14.
3. **Within 30 days of the date of this Order**, submit evidence to DES that the significant deficiency identified in the June 10, 2003, sanitary survey has been corrected.
4. **Within 30 days of the date of this Order**, notify water consumers of the August 2002 bacteria MCL violation and submit proof of such public notice to DES. A public notice template is enclosed to assist the Water System in performing public notice.
5. Send correspondence, data, reports, and other submissions made in connection with this Administrative Order, **other than appeals**, to DES as follows:

Alan Leach
Water Supply Engineering Bureau
Department of Environmental Services
29 Hazen Drive, PO Box 95
Concord, NH 03302-0095
Telephone: (603) 271-2854
Fax: (603) 271-5171
e-mail: aleach@des.state.nh.us

F. APPEAL

Any person aggrieved by this Order may appeal the Order to the Water Council by filing an appeal that meets the requirements specified in Env-WC 200 within 30 days of the date of this Order. Copies of the rule are available from the DES Public Information Center at (603) 271-2975 or at <http://www.des.state.nh.us/desadmin.htm>. Appealing the Order does not automatically relieve Frank Holland of the obligation to comply with the Order.

G. OTHER PROVISIONS

Please note that RSA 485:58 provides for administrative fines, civil penalties, and criminal penalties for the violations noted in this Order, as well as for failing to comply with the Order itself. Frank Holland remains obligated to comply with all applicable drinking water statutes and rules. DES will continue to monitor Frank Holland's compliance with applicable requirements and will take appropriate action if additional violations are discovered.

This Order is being recorded in the Belknap County Registry of Deeds so as to run with the land.

COPY

Harry T. Stewart, P.E. Director
Water Division

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For Michael P. Nolin, Ass't Comm.
Commissioner

Certified Mail/RRR: #7000 0600 0023 9932 6832

cc: Gretchen Rule, DES Legal Unit
Public Information Officer, DES PIP Office
DES Water Division Director's Office
Jennifer Patterson, Sr. Assistant Attorney General
Belknap County Registry of Deeds
Board of Selectmen, Town of Tilton
Town of Tilton Health Officer
US EPA, Region 1
NH Public Utilities Commission